



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P. [MD].No.3484 of 2020

and CRL.M.P. [MD]Nos.1871 & 1872 of 2020

WEB COPY

Jeyanthi

... Petitioner / Accused No.2

Vs.

R.Nandhini

Through Power Agent

S.J.Rajmohan

... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the proceedings in C.C.No.414 of 2019 on the file of the Judicial Magistrate No.1, Virudhunagar and quash the same as far as the petitioner/Accused No.2.

For Petitioner : Mr.K.Seenu Ramachandran

For Respondent : No Appearance

ORDER

This petition has been filed to quash 138 proceedings initiated against the petitioner, who is arrayed as second accused in C.C.No.414 of 2019 on the file of the Judicial Magistrate No.I, Virudhunagar.

2. The brief case of the complainant is that the accused 1 and 2 are the husband and wife. They have running a business in the name and style of 'Amirtham Trade Link' and they were having business relationship with the complainant. In the course of such business transactions, the above Amirtham Trade Link having a debt of Rs.4,60,000/-. Towards the value, the first accused has issued a cheque dated 11.07.2019. When the cheque was presented for encashment, the same was dishonored for the reason 'funds insufficient'. After issuing the notice, the private complaint has been filed. As against the same, the present petition has been filed.

3. It is the contention of the learned counsel appearing for the petitioner that the petitioner, who is arrayed as A2, is the wife of Mr.Johnson, who is the sole proprietor of 'Amirtham Trade Link' and she is no way connected with the issuance of cheque and the cheque was issued by her husband, who is arrayed as A1 and therefore, she cannot be prosecuted. Hence, he prays for allowing of this Criminal Original Petition.

4. Though the respondent has entered appearance through a counsel and the name of the counsel is shown in the cause list, there is no representation on behalf of the respondent.



5. This Court has perused the complaint.

6. Though it is averred that the husband and wife are running business together in the name of Amirtham Trade Link, on a perusal of the complaint it is seen that the cheque was issued by only A1 and copy of the cheque produced before this Court also indicates that A1 has signed in the cheque.

7. This Court is of the view that for maintaining the prosecution under Section 138 of Negotiable Instruments Act, 1881 the cheque should have been issued by a person, on the account maintained by him, to the drawee. However, the cheque has been issued by A1. Therefore, merely making some allegation that she was also doing business along with her husband, she cannot be prosecuted. Therefore, the private complaint filed against the petitioner in C.C.No.414 of 2019 is hereby quashed.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.414 of 2019 on the file of Judicial Magistrate No.1, Virudhunagar is hereby quashed as against the petitioner is concerned. The trial Court is directed to expedite the trial as against A1 and dispose of the same as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

VSM

To

The Judicial Magistrate No.I,
The Judicial Magistrate Court,
Virudhunagar

+1 CC to M/s.S.BALAMURUGAN, Advocate (SR-15802[F] dated
31/03/2022)

+1 CC to M/s.K.SEENU RAMACHANDRAN, Advocate (SR-15819[F] dated
31/03/2022)

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RK(13/04/2022) 2P 4C

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